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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/697,567	10/31/2003	Thomas Grafenauer	03100135US	8419
7055 7590 03/30/2007 GREENBLUM & BERNSTEIN, P.L.C. 1950 ROLAND CLARKE PLACE RESTON, VA 20191			EXAMINER LAUX, JESSICA L	
			ART UNIT 3635	PAPER NUMBER

SHORTENED STATUTORY PERIOD OF RESPONSE	NOTIFICATION DATE	DELIVERY MODE
3 MONTHS	03/30/2007	ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Notice of this Office communication was sent electronically on the above-indicated "Notification Date" and has a shortened statutory period for reply of 3 MONTHS from 03/30/2007.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

gbpatent@gbpatent.com  
pto@gbpatent.com

**Office Action Summary**

Application No.

10/697,567

Applicant(s)

GRAFENAUER, THOMAS

Examiner

Jessica Laux

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 03 January 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,3-7,9,12 and 13 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,3-7,9,12 and 13 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 31 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                                   | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>03/09/07</u>  | 6) <input type="checkbox"/> Other: _____                                    |

### DETAILED ACTION

Acknowledgment is made of the amendment filed 01/03/2006. Accordingly claims 12-13 have been added.

### *Specification*

The specification is objected to as it does clearly identify all of the required headings/sections as presented below.

#### Content of Specification

- (a) Title of the Invention: See 37 CFR 1.72(a) and MPEP § 606. The title of the invention should be placed at the top of the first page of the specification unless the title is provided in an application data sheet. The title of the invention should be brief but technically accurate and descriptive, preferably from two to seven words may not contain more than 500 characters.
- (b) Cross-References to Related Applications: See 37 CFR 1.78 and MPEP § 201.11..
- (c) Statement Regarding Federally Sponsored Research and Development: See MPEP § 310.
- (d) The Names Of The Parties To A Joint Research Agreement: See 37 CFR 1.71(g).
- (e) Incorporation-By-Reference Of Material Submitted On a Compact Disc: The specification is required to include an incorporation-by-reference of electronic documents that are to become part of the permanent United States Patent and Trademark Office records in the file of a patent application. See 37 CFR 1.52(e) and MPEP § 608.05. Computer program listings (37 CFR 1.96(c)), "Sequence Listings" (37 CFR 1.821(c)), and tables having more than 50 pages of text were permitted as electronic documents on compact discs beginning on September 8, 2000.
- (f) Background of the Invention: See MPEP § 608.01(c). The specification should set forth the Background of the Invention in two parts:
  - (1) Field of the Invention: A statement of the field of art to which the invention pertains. This statement may include a paraphrasing of

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the applicable U.S. patent classification definitions of the subject matter of the claimed invention. This item may also be titled "Technical Field."

- (2) Description of the Related Art including information disclosed under 37 CFR 1.97 and 37 CFR 1.98: A description of the related art known to the applicant and including, if applicable, references to specific related art and problems involved in the prior art which are solved by the applicant's invention. This item may also be titled "Background Art."
- (g) Brief Summary of the Invention: See MPEP § 608.01(d). A brief summary or general statement of the invention as set forth in 37 CFR 1.73. The summary is separate and distinct from the abstract and is directed toward the invention rather than the disclosure as a whole. The summary may point out the advantages of the invention or how it solves problems previously existent in the prior art (and preferably indicated in the Background of the Invention). In chemical cases it should point out in general terms the utility of the invention. If possible, the nature and gist of the invention or the inventive concept should be set forth. Objects of the invention should be treated briefly and only to the extent that they contribute to an understanding of the invention.
- (h) Brief Description of the Several Views of the Drawing(s): See MPEP § 608.01(f). A reference to and brief description of the drawing(s) as set forth in 37 CFR 1.74.
- (i) Detailed Description of the Invention: See MPEP § 608.01(g). A description of the preferred embodiment(s) of the invention as required in 37 CFR 1.71. The description should be as short and specific as is necessary to describe the invention adequately and accurately. Where elements or groups of elements, compounds, and processes, which are conventional and generally widely known in the field of the invention described and their exact nature or type is not necessary for an understanding and use of the invention by a person skilled in the art, they should not be described in detail. However, where particularly complicated subject matter is involved or where the elements, compounds, or processes may not be commonly or widely known in the field, the specification should refer to another patent or readily available publication which adequately describes the subject matter.
- (j) Claim or Claims: See 37 CFR 1.75 and MPEP § 608.01(m). The claim or claims must commence on separate sheet or electronic page (37 CFR 1.52(b)(3)). Where a claim sets forth a plurality of elements or steps, each element or step of the claim should be separated by a line indentation.

There may be plural indentations to further segregate subcombinations or related steps. See 37 CFR 1.75 and MPEP § 608.01(i)-(p).

- (k) Abstract of the Disclosure: See MPEP § 608.01(f). A brief narrative of the disclosure as a whole in a single paragraph of 150 words or less commencing on a separate sheet following the claims. In an international application which has entered the national stage (37 CFR 1.491(b)), the applicant need not submit an abstract commencing on a separate sheet if an abstract was published with the international application under PCT Article 21. The abstract that appears on the cover page of the pamphlet published by the International Bureau (IB) of the World Intellectual Property Organization (WIPO) is the abstract that will be used by the USPTO. See MPEP § 1893.03(e).
- (l) Sequence Listing. See 37 CFR 1.821-1.825 and MPEP §§ 2421-2431. The requirement for a sequence listing applies to all sequences disclosed in a given application, whether the sequences are claimed or not. See MPEP § 2421.02.

### ***Priority***

A specific reference to the application to which applicant is claiming priority must be included in the first sentence of the specification following the title. For benefit claims under 35 U.S.C. 120, 121 or 365(c), the reference must include the relationship (i.e., continuation, divisional, or continuation-in-part) of the applications.

### ***Response to Arguments***

Applicant's arguments filed 01/03/2007 have been fully considered but they are not persuasive.

Applicant argues that Palsson does not disclose or show form-fitting elements spaced apart in the transverse direction, noting that element 23 is not spaced apart in the transverse direction.

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Examiner disagrees with applicant's arguments noting first that, for example in figure 5 elements 23 include several stepped portions which are indeed spaced apart vertically and transversely, as is obvious from the drawing. Further examiner notes that both figures 5 and 6 disclose form-fitting elements (23, 24 and 22, 21) that are indeed spaced apart vertically and horizontally. Therefore applicant's arguments are not persuasive.

Applicant further argues that the male vertical assembly 10''' cannot lock the panels in a vertical direction.

Examiner disagrees noting that the claim recites "form-fitting elements for locking in the vertical direction...". As can be clearly seen from figures 5 and 6 elements 23, 24 and 21, 22 would lock the panels together in the vertical direction as the form-fitting elements of one panel are clearly positioned above the form-fitting elements of the other panel, thereby locking in the vertical direction and motion in the vertical direction is inhibited by such an arrangement.

Applicant argues the rejection of claim 5 noting, among other things, that the elements 23, 24 do not form a step-liked milled relief and that then further argues various features of Palsson and how they do not constitute applicant's claimed invention.

Examiner notes, firstly that elements 23, 24 were never recited as being the entirety of the step-liked milled relief and that upon a review of the rejection applicant will clearly see that the entire side edge of Palsson constitutes the step-like milled relief as claimed. Further examiner notes that applicant's remarks concerning various features of Palsson and how they do not show applicant's claimed features are moot

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and the rejection of the previous office action never cited or relied upon any of those argued feature in the manner applicant has presented.

As for the argument that Palsson does not show a horizontal head with a channel, applicant's remarks are not persuasive for the above reasons and examiner directs applicant attention the rejection as presented below for clarification.

Applicant argues that claim 4 is rejected over figure 5 while claim 1 is rejected over figure 1. Examiner notes that claim 1 recites a first side edge and second side edge. The figure 1 is used in reference to the first side edge and the figure 5-6 is used in reference to the second side edge (as presented and noted in the rejection) and that claim 4 is further limiting to the second side edge and therefore reference to figures 5-6 is correct.

Applicant argues that figure 6 of Palsson does not show a radius of curvature as claimed however claim 1 recites that the first side edge is the edge comprising this claimed feature and figure 1 represents the first side edge, which is proper and correct.

### ***Claim Rejections - 35 USC § 102***

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 3-7, 9 and 12-13 are rejected under 35 U.S.C. 102(b) as being anticipated by Palsson (WO 01/75247).

Regarding claim 1: Palsson discloses a floor panel which is bounded in a horizontal plane by a top side having a decorative layer (3) and an underside for bearing on an underlying surface (5), the floor panel being provided with means for releasably

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connecting at least two panels, wherein the connecting means are formed on at least one first side edge such that locking takes place in a transverse direction and a vertical direction (sides 2 and 2'' with elements 11 and 13), and further comprising form-fitting elements for locking in a vertical direction with a further panel (bottom paragraph of page 7 – top of page 8) formed on a second side edge (2''') running at an angle to the first side edge, wherein the form-fitting elements are spaced apart from one another in the vertical direction and the transverse direction (figures 5, 6, or 7) on two spaced-apart, essentially vertically oriented walls, and further comprising a tongue (11) on a first side edge (2) extending in the longitudinal direction of the first side edge, and a recess (13) corresponding to the tongue formed on an opposite side edge (2''), wherein an underside of the tongue, starting from a tip of the tongue, has a continuously curved contour and wherein a radius of curvature of the contour of the underside of the tongue is constant over at least 90 degrees (figure 1).

Regarding claims 3: The floor panel according to claims 1, wherein the recess is designed as a groove with a top lip (figure 1) and a bottom lip (14), in which the tongue can be latched in the transverse direction.

Regarding claim 4: The floor panel according to claim 1, further comprising a first step-like milled relief (on edge 2''' of figure 5) formed on the second side edge and starting from the underside, wherein the first step-like milled relief includes an inner wall (21) on which one said form-fitting element (21) extending in the transverse direction is arranged and an outer wall (opposite 21 generally at 23) on which another said form-fitting element extending in the transverse direction is arranged (23), and further



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comprising a second step-like milled relief (2<sup>IV</sup>) formed on a side edge that is located opposite the second side edge, wherein the second step-like milled relief starts from the top side and has an other inner wall (at 24) and an other outer wall (22), on which are formed undercuts (24) which correspond with the one and the other form-fitting elements (where 24 correspond with 23 and 22 corresponds with 21), wherein the first step-like milled relief forms a shoulder which projects in a direction of the underside and has an essentially horizontally oriented head surface (figure 5), and further comprising a channel formed in the head surface along a longitudinal extent in relation to the second side edge (figure 5, where the channel is between 22 and the main body of the panel).

Regarding claim 5: Palsson discloses a floor panel comprising:

- a top side (3);

- an underside for bearing on an underlying surface (5);

- a first side edge (2), having a tongue (11) and an opposite side edge (2'')

having a recess (13) corresponding to the tongue, and a second side edge (2''')

extending in a transverse direction to the first side edge and having a form-fitting

elements for locking in a vertical direction with a further panel (bottom paragraph of

page 7 – top of page 8), wherein the form-fitting elements are spaced apart from one

another in the vertical direction and the transverse direction (figures 5, 6, or 7), the

second side edge includes a first step-like milled relief (on edge 2''' of figure 5) starting

from the underside and having essentially vertical inner (21) and outer walls (opposite

21 generally at 23), wherein one of said form-fitting elements (21) is formed on the inner

wall and an other said form-fitting element (23) is formed on the outer wall, and the first

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step-like milled relief includes an essentially horizontal head surface with a channel formed therein (where the underside of the step-like relief is generally horizontal and the channel is between 21 and the main body of the panel as seen in figure 5).

Regarding claim 6: The floor panel of claim 5, wherein an underside of the tongue has a radius of curvature that is constant over at least 90 degrees (figure 1).

Regarding claim 7: The floor panel according to claim 5, wherein the recess is designed as a groove with a top lip (figure 1) and a bottom lip (14), in which the tongue can be latched in the transverse direction.

Regarding claim 9: The floor panel of claim 5, further comprising a side edge that is located opposite the second side edge having a second step-like milled relief (2<sup>IV</sup>) and having spaced apart undercuts (24) which correspond to the form-fitting elements.

Regarding claims 12-13: Palsson discloses the floor panel as in claims 1 and 5 above, wherein walls forming at least a portion the tongue and groove, respectively, are sized and shaped (in that upon examination of the drawings of Palsson the elements appear to have a similar size and shape as applicants claimed/disclosed invention) to form a dust pocket.

***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jessica Laux whose telephone number is 571-272-8228. The examiner can normally be reached on Monday thru Friday, 6:30am to 2:30pm (est).


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl Friedman can be reached on 571-272-6842. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



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03/17/2007



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